# DECISION

Transamerica Corporation v. Gregory Dominiak

Claim Number: FA1712001760941

## PARTIES

Complainant is **Transamerica Corporation** (“Complainant”), represented by **Gail Podolsky** of **Carlton Fields Jorden Burt, P.A.**, Georgia, USA. Respondent is **Gregory Dominiak** (“Respondent”), Arizona, USA.

**REGISTRAR AND DISPUTED DOMAIN NAME**

The domain name at issue is **<ontrackinvestments.com>**, registered with **Tucows Domains Inc**.

## PANEL

The undersigned certifies that he has acted independently and impartially and to the best of his knowledge has no known conflict in serving as Panelist in this proceeding.

David L. Kreider as Panelist.

## PROCEDURAL HISTORY

Complainant submitted a Complaint to the Forum electronically on December 1, 2017; the Forum received payment on December 1, 2017.

On December 4, 2017, Tucows Domains Inc. confirmed by e-mail to the Forum that the **<ontrackinvestments.com>** domain name is registered with Tucows Domains Inc. and that Respondent is the current registrant of the name. Tucows Domains Inc. has verified that Respondent is bound by the Tucows Domains Inc. registration agreement and has thereby agreed to resolve domain disputes brought by third parties in accordance with ICANN’s Uniform Domain Name Dispute Resolution Policy (the “Policy”).

On December 5, 2017, the Forum served the Complaint and all Annexes, including a Written Notice of the Complaint, setting a deadline of December 26, 2017 by which Respondent could file a Response to the Complaint, via e-mail to all entities and persons listed on Respondent’s registration as technical, administrative, and billing contacts, and to postmaster@ontrackinvestments.com. Also on December 5, 2017, the Written Notice of the Complaint, notifying Respondent of the e-mail addresses served and the deadline for a Response, was transmitted to Respondent via post and fax, to all entities and persons listed on Respondent’s registration as technical, administrative and billing contacts.

A timely Response was received and determined to be complete on December 5, 2017.

On December 11, 2017, both Complainant and Respondent made Additional Submissions, which have been considered by the Panel in reaching its decision.

On December 7, 2017, pursuant to Complainant's request to have the dispute decided by a single-member Panel, the Forum appointed David L. Kreider as Panelist.

Having reviewed the communications records, the Administrative Panel (the "Panel") finds that the Forum has discharged its responsibility under Paragraph 2(a) of the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules") "to employ reasonably available means calculated to achieve actual notice to Respondent" through submission of Electronic and Written Notices, as defined in Rule 1 and Rule 2.

## RELIEF SOUGHT

Complainant requests that the domain name be transferred from Respondent to Complainant.

## PARTIES' CONTENTIONS

1. Complainant

**Background**

Complainant, Transamerica Corporation, is a Delaware corporation headquartered in Cedar Rapids, Iowa. Complainant is a holding company for a group of subsidiaries engaged in the sale of life insurance, investment planning, and retirement services. Transamerica’s largest subsidiary, Transamerica Life Insurance Company (“Transamerica Life”), has been underwriting insurance since 1906 and has had more than $1,055 billion of insurance in force as of December 31, 2016. The Transamerica Companies include, among others, Transamerica Financial Life Insurance Company, a provider of life insurance products, annuities and investment options and services, Transamerica Advisors Life Insurance Company, a provider of annuity and life insurance, Transamerica Premier Life Insurance Company, a provider of annuities, life insurance, long term care, cancer, disability income, and Medicare supplement solutions, and Transamerica Casualty Insurance Company, a provider of property and casualty insurance services. The Transamerica Companies and their predecessors have used the name “Ontrack” since 1999 as a trade name and service mark. Transamerica owns numerous service mark registrations, with variations of the “Ontrack” theme, such as “Retire Ontrack,” “Get Ontrack,” “Stay Ontrack,” and “Plan Ontrack.” The Transamerica Companies have advertised and promoted “Ontrack” as a name and service mark for many years. The Transamerica Companies have spent significant funds every year to advertise and promote “Ontrack” as a name and service mark. Complainant’s “Ontrack” services is advertised by the Transamerica Companies at multiple websites, including but not limited to www.transamerica.com, www.trsretire.com, and www.ta-retirement. Complainant actively enforces its rights in the “Ontrack” service mark.

On March 14, 2012, Respondent registered the domain name <ontrackinvestments.com>

On April 18, 2017, Attorney Gail Podolsky, on behalf of Complainant, sent cease and desist correspondence to Respondent regarding, *inter alia*, the <ontrackinvestments.com> domain name registration. In said correspondence, Complainant, among other things, demanded that Respondent immediately cease from violating Complainant’s trademark rights. Respondent has subsequently replied by stating that the domain was allegedly high jacked.

As of December 1, 2017, Respondent’s website located at <ontrackinvestments.com> prominently displays the term “ontrackinvestments.com” at the top of the home page. The <ontrackinvestments.com> website contains a listing of links which brings the Internet user to websites containing links to Complainant’s competitors which offer services in direct competition with those offered by Complainant. Therefore, Complainant’s customers and other Internet users may reasonably, but mistakenly, believe they can obtain these services from Complainant through Respondent’s website, and that Respondent’s website is sponsored by Complainant. Respondent’s use of the domain name <ontrackinvestments.com> thus creates a likelihood of confusion among users by creating the perception and impression that Complainant owns, sponsors, or endorses Respondent’s website.

Respondent’s <ontrackinvestments.com> domain name appears in the source code of the <ontrackinvestments.com> website.

**The <ontrackinvestments.com> Domain Name is Confusingly**

**Similar to Complainant’s Mark**

The <ontrackinvestments.com> domain name is confusingly similar to Complainant’s RETIRE ONTRACK mark as it incorporates this mark in its entirety and is used as the dominant component of the second level domain. *See Choice Hotels International, Inc. v. Michele Dinoia a/k/a SZK.com*, FA 282792, p. 5 (NAF Jul. 28, 2004) (“Generally, the fact that a domain name incorporates a Complainant’s registered mark is sufficient to establish identical or confusing similarity for purposes of the [ICANN] Policy.”). The addition of the term “investments” is not sufficient to distinguish the domain name from the TRANSAMERICA mark. *See Perot Sys. Corp. v. Brown*, FA 97303 (Nat. Arb. Forum June 25, 2001) (finding the domain names <urn2perotsystems.net> and <urn2perotsystems.org> were confusingly similar to Complainant’s PEROT SYSTEMS mark); *Victoria’s Secret et al v. Brown*, FA 96561 (Nat. Arb. Forum Mar. 19, 2001) (finding the domain names are <urn2victoriassecret.com> and <urn2victoriassecrets.com> were confusingly similar to Complainant’s VICTORIA’S SECRET mark); *DIRECTV, Inc. v. SEO KINGPIN*, FA 956507, p. 3 (NAF May 29, 2007) (finding <direct-tv-com.com> confusingly similar to Complainant’s DIRECTV mark); *Microsoft Corporation v. Charilaos Chrisochoou*, D2004-0186, p. 3 (WIPO, May 10, 2004) (hereinafter “Microsoft”) (finding <microsoft-com.com> confusingly similar to Complainant’s MICROSOFT mark). Furthermore, the addition of the “.com” suffix does not overcome the confusing similarity of the domain name with Complainant’ marks. *See Wal-Mart Stores, Inc. v. Michael Folan*, FA1076262, p. 3 (NAF Oct. 26, 2007) (“the addition of ... a top-level domain is required for all domain names.”); *Google Inc. v. Tobec Acquisitions*, FA1296156, p. 3 (NAF Jan. 15, 2010) (finding that the addition of a gTLD, whether it be “.com,” “.net,” “.biz,” “.info,” or “.org” is “insufficient to adequately distinguish the disputed domain name from the Complainant’s mark.”).

Based on the above, Respondent’s registration of the <ontrackinvestments.com> domain name serves only to cause confusion, mistake, or deception among consumers attempting to locate Complainant’s website.

**Respondent Has No Rights or Legitimate Interests in <ontrackinvestments.com>, and Respondent Registered and is Using the Domain Name in Bad Faith**

Complainant never authorized Respondent to register or use the ONTRACK mark in any manner. Respondent has no rights or legitimate interests in the <ontrackinvestments.com> domain name under ¶ 4(c) of the UDRP Policy.

Complainant is unaware of any evidence that Respondent has ever commonly been known by the name “Ontrack Investments” (or variations thereof) prior to Respondent’s registration of the <ontrackinvestments.com> domain name. Therefore, Respondent lacks rights or legitimate interests in the domain name. See UDRP Policy ¶ 4(c)(ii); *AAA Employment, Inc., v. Ahearn and Assoc.*, FA0520670, p. 6 (NAF Sept. 6, 2005) (“[i]t must be shown by evidence that Respondent was commonly known by the domain name at the time of registration of the domain name.”); *Yoga Works, Inc. v. Jenna Arpita d/b/a Shanti Yoga Works*, FA0155461, p. 4 (NAF June 17, 2003) (finding that UDRP Policy ¶ 4(c)(ii) was not satisfied where there was no evidence that respondent was commonly known by the <shantiyogaworks.com> domain name prior to its registration of the disputed domain name).

As discussed in Section 6(d) above, the <ontrackinvestments.com> website contain links to retirement services offerings in direct competition with those offered by Complainant. Use of a confusingly similar domain name to divert Internet users to a website containing such links is not a *bona fide* offering of goods or services pursuant to UDRP Policy ¶ 4(c)(i). Instead, this demonstrates that Respondent registered and is using the <ontrackinvestments.com> domain name in bad faith, for the purpose of intentionally attempting to divert, for commercial gain, Internet users to Respondent’s website by creating a likelihood of confusion with Complainant’s ONTRACK marks as to the source, sponsorship, affiliation, and endorsement of the services offered through links on Respondent’s website. *See* UDRP Policy ¶ 4(b)(iii) and ¶ 4(b)(iv); *State Farm Mutual Automobile Insurance Company v. xi wang*, FA1579058, pp. 5-6 (NAF October 13, 2014) (“Respondent previously used the <statefarmsusa.com> domain name for a parked webpage that consisted of a variety of different links, some of which were in direct competition with Complainant. . . . the Panel finds that Respondent’s previous use of the disputed domain name constitutes bad faith pursuant to Policy ¶ 4(b)(iv).”); *Boston Green Goods Inc. v. Dealwave*, FA1115186, pp. 5-6 (NAF Jan. 15, 2008) (“Respondent previously used the . . . domain name to host a website featuring third-party links, some in direct competition with Complainant. The Panel finds that such use is not a *bona fide* offering of goods or services under [UDRP] Policy ¶4(c)(i) or a legitimate noncommercial or fair use under [UDRP] Policy ¶ 4(c)(iii).”); *Major Hustle Entertainment/Records, Co., v. Major Hustle Ent LLC*, FA1071809, pp. 4-5 (NAF Oct. 17, 2007) (“Respondent’s disputed domain names resolve to a website that offers links to competing websites. The Panel finds that such use amounts to a disruption of Complainant’s business, which supports a finding of registration and use in bad faith pursuant to [UDRP] Policy ¶ 4(b)(iii).”); *Enterprise Holdings, Inc. v. (Undisclosed)*, FA1337431, p. 4 (NAF Sep. 12, 2010) (“The Panel finds that Respondent’s use of the disputed domain name to display various third-party links to . . . the websites of Complainant’s competitors, presumably for financial gain, is further evidence of Respondent’s bad faith registration and use under Policy ¶ 4(b)(iv)”).

Also, Respondent’s use of the <ontrackinvestments.com> domain name is “evidence of bad faith pursuant to [UDRP] Policy ¶ 4(b)(iv) because the domain name provides links to Complainant’s competitors and Respondent presumably commercially benefits from the misleading domain name by receiving ‘click-through-fees.’” *Associated Newspapers Limited v. Domain Manager,* FA0201976, p. 4 (NAF Nov. 19, 2003). *See also Google Inc. v. Aloysius Thevarajah*, FA1295342, p. 4 (NAF Dec. 31, 2009) (“[T]he <googleos.org> domain name resolves to a parked website that features hyperlinks to third-parties unrelated to Complainant. The Panel assumes that Respondent receives click-through fees . . . This use of the disputed domain name constitutes bad faith registration and use under [UDRP] Policy ¶ 4(b)(iv).”).

Respondent is not making a legitimate noncommercial or fair use of the domain name <ontrackinvestments.com>, therefore, UDRP Policy ¶ 4(c)(iii) does not apply. *See CanadaDrugs.com Partnership v. MyCanadaDrugs LLC*, FA0429088, p. 4 (NAF Apr. 7, 2005) (“. . . [UDRP] Policy ¶ 4(c)(iii) does not apply since Respondent is not making noncommercial or fair use of the domain name.”).

Furthermore, Respondent’s registration of the <ontrackinvestments.com> domain name “in spite of actual or constructive knowledge [of Complainant’s rights in the RETIRE ONTRACK mark], amounts to bad faith registration and use pursuant to [UDRP] Policy ¶4(a)(iii).” *PPG Industries Ohio, Inc. v. PPG Car Paints*, FA0874856, p. 6 (NAF Feb. 21, 2007). *See also Digi International Inc. v. DDI Systems*, FA0124506, p. 7 (NAF Oct. 24, 2002) (“there is a legal presumption of bad faith, when Respondent reasonably should have been aware of Complainant’s trademarks, actually or constructively.”). Here, Respondent is presumed to have knowledge of Complainant’s registered mark and reputation because Respondent’s domain name <ontrackinvestments.com> incorporates Complainant’s mark in its entirety. *See The PNC Financial Services Group Inc. v. Unasi Inc.*, FA0535925, p. 6 (NAF Sept. 20, 2005) (“Respondent’s registration of the disputed domain names, which contain confusingly similar versions of Complainant’s PNC, PNCBANK and PNCBANK.COM marks, and Complainant’s registration of its marks with the USPTO suggest[sic] that Respondent knew of Complainant’s rights in the mark when Respondent registered the domain names.”). Consequently, Complainant respectfully submits that Respondent has registered and has been using the <ontrackinvestments.com> domain name in bad faith.

Based on the above, Respondent’s domain name registration serves only to cause confusion, mistake or deception among consumers, especially those consumers who are seeking to locate Complainant’s website.

1. Respondent

I received notification today from the ADR Forum notifying me that Transamerica, Inc., and their legal representatives Carlton Fields Law Offices are alleging that I purchased the domain name ontracktinvestments.com in bad faith with the intent of harming the Transamerica trademark for my own personal gain. Nothing could be further from the truth. I intend to show that I purchased the domain in good faith to start set-up a website for a small business and that fact is supported by both Yahoo Small Business Inc records as well as a name change that was required by FINRA (Financial Industry Regulatory Authority), and perhaps most importantly, setting-up an Arizona LLC, On Track Investments, LLC.

Although my primary profession is a radiation physicist (since 1991), I received the designation of a Registered Investment Advisor in the State of Arizona in 2011 after successfully passing my Series 65 exam. I had developed and coded a mutual fund selection algorithm and could not offer financial advice to client for a fee without that designation per Federal and State Law. At that time I filed to become an Arizona LLC named Momentum Market Investment Strategies, LLC. I then purchased mmistrategies.com for yahoo small business services. In approximately 2012, someone suggested that the name Momentum Market Investment Strategies, LLC sounded like a marketing company and not a financial services company. I then chose On Track Investment Strategies, LLC (please note the “On” “Track” are separate words) for a new name, filed for a name change with the Arizona Corporation Commission, purchased the domain name ontrackinvestments.com, and changed requisite information in the FINRA database. I did not have any clients at this time but wished to keep open the possibility.

In December of 2014 I received an email from Diane Duhaime informing me that the word OnTrack was a registered trademark of a Transamerica financial product. I promptly responded to her in good faith and immediately shutdown my website, and dissolved On Track Investments, LLC so as not to infringe on their trade mark.

I finally settled on the name Dominiak Investment Strategies, LLC assuming no one could possibly have a trademark on my last name.

In late 2017, I received an email from Gail Podolsky of Carlton Fields that her firm wanted me to transfer the domain name ontrackinvestments.com to their Law Office at no charge. At that time, I did not know the domain name ontrackinvestments.com was being used for nefarious purposes, that someone was effectively cybersquatting on the domain that I owned. More importantly I could not understand how a website could even exist given I had cancelled webhosting in 2014. I did request the help of Mrs. Pololsky in figuring out how this could be possible especially given I had cancelled webhosting with yahoo small business. She informed me by email they were unable to contact the offender.

I then filed a complaint with Tucows to stop the cybersquatting.

Because yahoo small business removes all controls both for the website and domain transfer when you cancel webhosting, I had no way of deciphering what was happening as I am not an IT expert and Carlton Fields was unable to help. I concluded that Yahoo Small Business would have the incentive to help me if I reactivated webhosting for ontrackinvestments.com. On Sunday, December 3, 2017, I paid and reactivated my website and quickly moved all webpages to a secure SSL folder so that my old website could not be viewed. When I typed in ontrackinvestments.com the nefarious website was still showing. I placed a call to yahoo small business support asking them why someone else’s website was showing up for my webhosting plan. After placing me on hold, they informed me the NS Name Servers had been changed at were causing ontrackinvestments.com to point to a server that did not belong to yahoo small business. They had me simply reset the name servers back to yahoo and the website disappeared. They could not explain how the servers got changed. Perhaps the Carlton Field Law Offices can compel yahoo small business how that could happen. The second I cancelled my webhosting plan in 2012 I lost the ability to change anything related to ontrackinvestments.com domain and any existing website. This can be substantiated by Yahoo.

In summary, I purchased the domain named with a legitimate intent to begin my foray into financial advising, and I purchased it in good faith. I did not purchase it with the intention of infringing on Transamerica’s trademark as evidenced by my instantly dissolving On Track Investments, LLC and cancelling webhosting for ontrackinvestments.com. In addition, when I reached out to Carlton Fields Law Offices to help stop the cybersquatting they declined to assist me. I believe Transamerica and their legal representation, Carlton Fields Law Offices, acted in bad faith by filing this Complaint in order to gain control of a domain name I legitimately own. It was me, not the Carlton Fields Law Firm or Transamerica representatives who were able to solve and stop the cybersquatting on ontrackinvestments.com. I had to spend my own personal time and use my money to prepay an entire year of webhosting services from yahoo on 12/3/17 to stop the cybersquatting which is outlined in the Complaint.

Yahoo small business will have a record of my conversation with their support representative regarding our discussion of how someone can cybersquat on my domain and how that very representative was able to identify the name servers had been changed on an inactive website. I also responded to their survey regarding the level of support I received from them. That should be on record

I do not believe that Transamerica has a right to take my domain at no cost to them, a bad faith gesture on their part. Again, the domain name ontrackinvestments.com was purchased in good faith with a legitimate business intention, Transamerica has no right to the domain ontrackinvestments.com.

## FINDINGS

Complainant registered its ONTRACK trade mark with USPTO on November 11, 2008, claiming continuous use of the mark in commerce since at least as early as April 1, 1999. Respondent registered the Disputed Domain Name <ontrackinvestments.com> on March 14, 2012, with the intention of marketing investment planning and retirement services, precisely the same business in which Complainant is engaged.

## DISCUSSION

Paragraph 15(a) of the Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

Paragraph 4(a) of the Policy requires that Complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

1. the domain name registered by Respondent is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
2. Respondent has no rights or legitimate interests in respect of the domain name; and
3. the domain name has been registered and is being used in bad faith.

### Identical and/or Confusingly Similar

Complainant’s trade mark “ONTRACK” is incorporated in its entirety within the Disputed Domain Name <ontrackinvestments.com>. The Disputed Domain Name is, therefore, identical or confusingly similar to Complainant’s registered mark. The inclusion of the additional word “investments” serves only to increase the likelihood of confusion on the part of public internet users, as both Complainant and Respondent provide investment planning and retirement services. Furthermore, the addition of the top-level domain “.com” is of no relevance under the Policy and does not require a different result.

Complainant has satisfied the first element of the Policy, Paragraph 4(a)(i).

### Rights or Legitimate Interests

The Complainant asserts that, as of December 1, 2017, Respondent’s website located at <ontrackinvestments.com>, which prominently displays the term “ontrackinvestments.com” at the top of the home page and contains links to Complainant’s competitors, is likely to create confusion and the misperception and misimpression on the part of public internet users that Complainant owns, sponsors, or endorses Respondent’s website.

Respondent asserts that Complainant’s allegations that he “purchased the domain name <ontracktinvestments.com> in bad faith with the intent of harming the Transamerica trademark for [his] own personal gain” are untrue. Respondent offers in support of this assertion, that he used two separate words “ON” and “TRACK”, separated by a space, in connection with his “On Track Investment Strategies” investment planning and retirement services business.

Respondent further avers that, upon being informed by Complainant’s counsel that the Disputed Domain Names infringed on Complainant’s trade mark, he immediately put an end to all infringing activity “in good faith”. The Respondent relates:

“In December of 2014, I received an email from Diane Duhaime informing me that the word OnTrack was a registered trademark of a Transamerica financial product. I promptly responded to her in good faith and immediately shutdown my website, and dissolved On Track Investments, LLC so as not to infringe on their trade mark.”

The contemporaneous correspondence between the parties tells a materially different story.

Upon being informed by Respondent that the offending website had been disabled, Complainant’s counsel specifically advised Respondent in an email:

“*Please note that the space between the two words [“On” and “Track”] is not sufficient to distinguish the marks*.”

Significantly, in the view of the Panel, upon receiving this critical piece of legal advice, Respondent replied:

“Thank you for your email. I did disable the website *and will separate the word “On” and “Track” in the future* and now appreciate the fact that Transamerica has the registered trademark for “OnTrack”.

That is, even upon receiving a clear and unambiguous cease and desist letter and follow up emails from Complainant’s counsel demanding that Respondent discontinue using the Disputed Domain Name and infringing upon Complainant’s ONTRACK mark, Respondent’s reply email showed that Respondent intended nonetheless to continue using the Complainant’s registered mark “***in the future***”, albeit with a space between the words “On” and “Track”, after having been told by Complainant’s lawyers that inserting a space between the words would not remedy Respondent’s continuing infringement of the Complainant’s trade mark.

On May 16, 2017, Respondent wrote to Complainant’s lawyers, stating that he was no longer using the URL or the name On Track Investments, LLC, and again representing that he had abandoned the domain name, and changed the name of his business. Respondent further stated that he was willing to transfer the domain ownership to Transamerica.

To the contrary, however, the Complainant alleges (and provides screen shots of Respondent’s website to support its allegations), that Respondent was continuing his offending use of the Dispute Domain Name and website as recently as December 1, 2017.

The Panel notes Respondent’s unsupported claims that the Disputed Domain Name had been “hijacked” for a period of time and that the website with links to Complainant’s competitors was not under his control. For purposes of deciding this UDRP proceeding, the Panel need not determine whether Respondent’s defense of “hijacking” contains any element of truth, as the “hijacking” issue was overtaken by subsequent events.

Complainant responded to Respondent’s “hijacking” claim, by stating that it would file a UDRP Complaint, which would order the transfer of the domain to Complainant. Complainant further stated that Respondent could expedite the process by stating in his response to the Complaint that he consents to the transfer of the domain to Transamerica.

Significantly, as Complainant relates in its Additional Submission, after initially agreeing to transfer the Disputed Domain Name to Complainant, Respondent thereafter materially changed his tune:

“Respondent is now objecting to the transfer and most recently is demanding that Transamerica pay him $30,000 for the domain… Respondent’s conduct, namely, agreeing to transfer the domain to Complainant, refusing to follow through with his promise to transfer the domain because he allegedly lost access to his domain account, miraculously obtaining access to his domain account, and demanding that Complainant pay him $30,000 for the domain demonstrates that Respondent has and is continuing to act in bad faith.”

The Panel has no difficulty in finding on these facts that Respondent is not engaged in a *bona fide* commercial use of the Disputed Domain Name and has no rights or legitimate interests thereto.

Complainant has satisfied the second element of the Policy, Paragraph 4(a)(ii).

### Registration and Use in Bad Faith

For the reasons given above, among others, the Panel prefers the Complainant’s submissions and finds that the greater weight of the evidence reflects that Respondent registered and is using the Disputed Domain Name in bad faith, for the purpose of intentionally attempting to divert, for commercial gain, internet users to Respondent’s website by creating a likelihood of confusion with Complainant’s ONTRACK marks as to the source, sponsorship, affiliation, and endorsement of the services offered through links on Respondent’s website, or to sell the Disputed Domain Name to Complainant for a price that far exceeds Respondent’s actual expenses, or both.

Complainant has satisfied the third element of the Policy, Paragraph 4(a)(iii).

## DECISION

Having established all three elements required under the ICANN Policy, the Panel concludes that relief shall be **GRANTED**.

Accordingly, it is Ordered that the **<ontrackinvestments.com>** domain name be **TRANSFERRED** from Respondent to Complainant.

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David L. Kreider, Panelist

Dated: December 15, 2017